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MINERALS PROGRAM
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LAW OFFICES OF
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January 5, 1995

D. Wayne Hedburg
Permit Supervisor, Minerals Reclamation Program
DIVISION OF OIL, GAS AND MINING
Department of Natural Resources
State of Utah
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

Re: Parley's Canyon Aggregate Company

Dear Mr. Hedburg:

I have been asked to respond to your letter of December 20, 1994, directed to Parley's Canyon Aggregate Company. I represent Harper Contracting, which is a lessee of the pit in question. Harper has had the lease for approximately one and one-half years. During this past year Harper has taken only sand, gravel and rock aggregate out of the pit. Before that, Harper had to prepare the pit for the removal of sand, gravel and rock aggregate. At no time there has Harper conducted any mining operations, as that term is defined in Utah Code Ann. § 40-8-1 et seq. (the Utah Mined Land Reclamation Act). I also refer to the exchange of correspondence between Mr. A. John Davis, who has served as legal counsel for Parley's Canyon Aggregate Company, and the Division of Oil, Gas and Mining. As is made clear in that correspondence, at no time has Parley's Canyon Aggregate Company waived its claim that it is entitled to conduct a sand and gravel operation at the site in question free of regulation of the Division of Oil, Gas and Mining. Specifically, Parley's has always reserved its right on the basis that either in its own capacity or through lessees, it has and will continue to remove only sand, gravel, and rock aggregate, as specifically exempted by the Act.

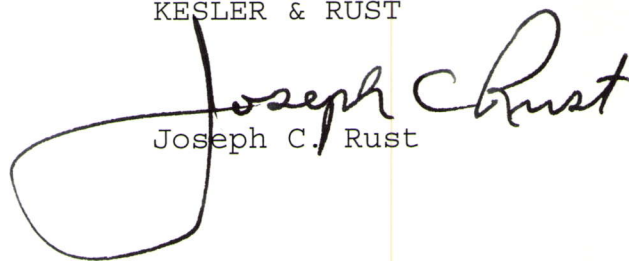
As you are aware, the issue of defining rock aggregate is presently before the Utah Supreme Court in the case of Larson Limestone et al. v. State of Utah, Division of Oil, Gas & Mining, Supreme Court No. 940440. We reference the arguments raised by the appellants as well as by amicus in that case in support of our position herein.

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In sum, it is the position of Harper that it need not comply with your request for an annual report for the reason, as aforesaid, that Harper is not conducting any mining operations at the site in question. Moreover, it is possible that during 1995 the pit size will exceed five acres.

Respectfully,

KESLER & RUST


Joseph C. Rust

JCR/mw

cc: Harper Contracting

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